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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA,)	Case No. 3:93-CR-00002-HRH
)	
Plaintiff,)	
)	<u>SUPPLEMENTAL</u>
vs.)	<u>RE-SENTENCING BRIEF</u>
)	
AARON HICKS,)	
)	
Defendant.)	
)	
)	
)	

COMES NOW, the United States of America, by and through Special Assistant United States Attorney John J. Novak and hereby files this supplemental memorandum in response to the court's May 14, 2007, minute order.

Attached is a copy of the sentencing hearing transcript at which the defendant did not object to the drug quantity calculation contained in the pre-sentence report to the extent it established a base level offense of 38. *See*, transcript at pp. 2-3.

With regard to the evidence admitted at trial, undersigned counsel's Westlaw research reflects that defendant filed an original appeal, docket no. 93-30269, on July 22, 1993. The Ninth Circuit Court of Appeals appears to have affirmed the conviction on February 23, 1995, by means of an unpublished memorandum opinion. As a result of the prior appeal, it is the expectation of undersigned counsel that a transcript of the trial was prepared and can be reviewed and relied upon by this court in making a finding by clear and convincing evidence as to the quantities of drug proven at trial. (At this time, undersigned counsel has not yet located a copy of the transcript. Efforts to do so are ongoing.) Even if a transcript was not prepared, the court could listen to the audio recording of the trial to make findings. The United States currently does not intend to again retry the case, now nearly 15 years after completion of the original trial.

RESPECTFULLY SUBMITTED this 16th day of May, 2007, in Anchorage, Alaska.

NELSON P. COHEN
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s/ John J. Novak
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CERTIFICATE OF SERVICE

I hereby certify that on May 16, 2007,
a copy of the foregoing was served
electronically on:

Rich Curtner
Federal Public Defender

s/ John J. Novak